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January 9, 2012

BY ECF

Honorable James Orenstein  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Russ v. Darrell Chavers, et al., 10 CV 1370 (SLT)(JO)

Dear Magistrate Judge Orenstein:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department, and the attorney assigned to the above-referenced case on behalf of Detective Chavers. In a letter dated December 26, 2011 plaintiff sought an additional sixty (60) day extension of time to respond to Defendant's First Set of Interrogatories and Request for Production of Documents. On January 5, 2012 Your Honor issued an Order directing defendant to respond to plaintiff's letter by January 9, 2012. Accordingly, I write on behalf of defendant Detective Chavers in response to plaintiff's letter. Defendant objects to plaintiff's request on the grounds that plaintiff has had more than an adequate amount of time to respond to defendant's discovery demands. However, defendants also respectfully request that the Court issue an Order directing plaintiff to respond to defendant's discovery demands by a date certain upon pain of dismissal, and extending the time to complete discovery until forty-five (45) days after defendant receives plaintiff's responses.

As Your Honor may recall, defendant served plaintiff with discovery demands at the status conference which was held on October 19, 2011. Plaintiff was reminded of his obligation under the Federal Rules to respond within thirty (30) days, by November 18, 2011. Following the conference, plaintiff contacted the undersigned and requested a new copy of defendant's discovery demands, as well as an extension of time to respond. Defendant consented to plaintiff's request. Thereafter, on or about December 20, 2011, the undersigned engaged in a telephone call with plaintiff wherein we discussed Your Honor's Report and Recommendation regarding plaintiff's proposed amended complaint, as well as the fact that plaintiff had not yet responded to defendant's discovery demands. As discovery is currently scheduled to close in this matter on January 19, 2012, the undersigned informed plaintiff that defendant would seek

judicial intervention if he failed to promptly provide discovery responses. Plaintiff agreed to respond by December 23, 2011.

Defendant did not receive a response from plaintiff by December 23, 2011 as agreed. Given the holidays, and the related post office closures, the undersigned planned to wait until after the holidays to file a motion to compel, believing that plaintiff's discovery responses were simply delayed. However, plaintiff's discovery responses did not arrive, and instead, upon the undersigned's return to the office following the holidays, plaintiff's letter requesting an extension of discovery was received.

Defendant respectfully submits that plaintiff has had more than an adequate amount of time to respond to defendant's discovery demands. Accordingly, we oppose plaintiff's request for an additional sixty (60) days to provide responses. However, given the history discussed above, defendant respectfully requests that the Court issue an Order directing plaintiff to provide responses by a date certain upon pain of dismissal, and extending the time to complete discovery until forty-five (45) days after defendant receives plaintiff's responses.

Thank you for your consideration in this regard.

Respectfully submitted,



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cc: BY MAIL  
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